



www.motleyrice.com

"I will stand for my client's rights.
I am a trial lawyer."
—Ron Motley (1944–2013)

28 Bridgeside Blvd.
Mt. Pleasant, SC 29464
o. 843.216.9000 f. 843.216.9450

Fred Thompson III
Licensed in South Carolina
direct: 843.216.9118
fthompson@motleyrice.com

May 28, 2021

VIA ELECTRONIC MAIL

Hon. Richard Mark Gergel
Blaise N. Barber, Esq.
U.S. District Court for the District of South Carolina
Blaise_Niosi@scd.uscourts.gov

Re: *In re AFFF Products Liability Litigation*, MDL No. 2:18-mn-2873-RMG

Dear Judge Gergel and Ms. Barber:

On behalf of the Plaintiffs Executive Committee (“PEC”) and counsel for Defendant Dynax Corporation (the “Parties”), we write to provide an update to the Court regarding the Parties’ efforts to resolve their discovery dispute relating to the PEC’s request for deposition testimony concerning certain of Dynax’s sales volume information, and Dynax’s objection to a second deposition, which is the subject of a May 18, 2021 correspondence to the Court by the PEC, and a May 21, 2021 correspondence to the Court from Dynax. For the Court’s convenience, the Parties have attached these submissions to the Court as Exhibits A and B, respectively (the “Submissions”).

Since the filing of these Submissions, pursuant to the Court’s May 24, 2021 email to the Parties and the Court’s May 24, 2021 Text Order [ECF No. 1628], the Parties have met and conferred either by phone and/or by email on May 25th, May 26th and May 27th in an effort to resolve their potential discovery dispute. As the Court suggested, the Parties anticipate being able to use written discovery, rather deposition testimony, to obtain further information regarding the sales data provided by Dynax. However, because the PEC’s proposed written discovery has not yet been propounded, the Parties have not yet reached an agreement as to the scope of such discovery or how such discovery should impact the PEC’s deadline for responding to Dynax’s pending motions to dismiss for lack of personal jurisdiction.

As of yesterday, the Parties have come to following agreement. The PEC will propound its proposed written discovery by no later than close of business on Tuesday, June 1, 2021. Thereafter, the parties will promptly meet and confer with regard to the proposed written discovery and timing for Plaintiffs’ responses to Dynax’s pending motions, and after these meet and confer efforts are exhausted, if the Parties are still unable to resolve the dispute, then the PEC will file its motion to compel by no later than Friday, June 4, 2021.

As such, in light of the foregoing agreement between the Parties, and with the consent of counsel for Dynax, the PEC respectfully requests that the its current deadline to file a motion to compel be extended from May 31, 2021 to June 4, 2021, so that the Parties have some additional time to meet and confer regarding the proposed written discovery with the hope of alleviating the need to file a motion to compel.



May 28, 2021
Page 2

We thank the Court for its continued time and courtesies.

Respectfully submitted,

Fred Thompson, III
28 Bridgeside Blvd.
Mt. Pleasant, South Carolina 29464
Ph: 843-216-9000

Plaintiffs' Liaison Counsel

-and-

s/ Addie K.S. Ries (by permission)

Addie K. S. Ries
Smith, Anderson, Blount, Dorsett,
Mitchell & Jernigan, LLP
Wells Fargo Capitol Center
150 Fayetteville Street, Suite 2300
Raleigh, North Carolina 27601
Ph: 919-821-6170

cc: Brian Duffy, Esq. (Defense Liaison Counsel)
Michael A. Olsen, Esq. (Defense Co-Lead Counsel)
Joseph G. Petrosinelli, Esq. (Defense Co-Lead Counsel)
David E. Dukes, Esq. (Defense Liaison Counsel)
Michael A. London, Esq. (PEC Co-Lead Co-Lead)
Paul J. Napoli, Esq. (PEC Co-Lead Counsel)
Scott Summy, Esq. (PEC Co-Lead Counsel)
Wesley Bowden, Esq. (Plaintiff's Counsel)